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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.3365 OF 2006

Kishor Keshav Baria .. Applicant

Versus

The State of Maharashtra .. Respondent

Mr.P.B.Patil for applicant

Mr.P.S.Hingorani, A.P.P. for State.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 22nd September 2006

P.C.

. The applicant is arrested on 20th April 2006 by Nalla Sopara police station in connection with C.R.No.I-113/06. The allegations are that

the applicant has committed offence punishable under section 307, 504, 506 read with 34 I.P.C.

2. It is not disputed that the investigations are complete and the charge sheet is filed. It is no doubt true that the applicant is residing with his parents, wife and a son aged 3 years at Nalla Sopara. Co-accused is his father. Co-accused is working in the same bank as complainant and it appears that there was some financial/loan transaction between the complainant and the father of the applicant. Since the amount was outstanding and not paid for a considerable length of time, the complainant got agitated and one fine morning reached the place where the applicant together with father and family resides. During the course of some heated discussion, the father allegedly told complainant that he would not repay the amount and she can go ahead and do whatever she desires in these circumstances. It is, therefore, alleged that the father took out a knife and

assaulted the complainant. The only role attributed to the applicant in this incident is that he held hands of complainant with a view to enable his father to assault the complainant.

3. There are no recoveries as far as applicant is concerned. Admittedly, he is not a borrower.

4. Applicant's counsel has contended before me that no prima facie case is made out because, there are no weapons which are recovered at the instance of applicant. He is alleged to have held hands of the complainant but the complainant has sustained injuries on her hands as well. These are the same knife injuries. It is, therefore, inconceivable that having held her hands the complainant would sustain injuries thereto. There are no blood stained clothes of applicant which were seized.

5. Learned A.P.P. on the other hand submits

that the applicant had definite role to play. His presence is not disputed so also that he held hands of the complainant. Thus there is common intention.

6. In my view, since investigations are complete and charge sheet is filed and applicant having limited role so also he being firmly rooted and aged 26 years, with a family of his own to support, he deserves to be enlarged on bail with following conditions:-

i) The applicant arrested in connection with C.R.No.I-113 of 2006 registered with Nalla Sopara Police Station shall be enlarged in the sum of Rs.10,000/- with one or two local sureties in the like amount.

ii) The bail is granted subject to condition that the applicant will remain present before the concerned

investigating officer of Nalla Sopara police station between 6.00 p.m. and 8.00 p.m. once a week, till conclusion of the trial.

iii) The order of bail will be given effect only after the applicant furnishes to the investigating officer the details about his place of residence and address where he proposes to stay after he is enlarged on bail. The applicant will not change his residential address thereafter till the conclusion of trial without prior intimation to the Investigating officer.

iv) The bail is granted subject to condition that the applicant shall not directly or indirectly, make any inducement or threat to any prosecution witnesses and shall not in any manner tamper with the prosecution evidence.

v) The applicant shall cooperate with the learned Trial Judge for expeditious disposal of the case. Any attempt by the applicant to delay the trial may be a ground for cancellation of bail.

vi) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

vii) Application is disposed of in above terms.

viii) Parties to act on an authenticated copy of this order.

(S.C.DHARMADHIKARI, J)